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The time period for reply, if any, is set in the attached communication.

RECORD OF ORAL HEARING
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MIKIHIRO GAU, MITSUHIKO OSANAI, TAKASHI ANDO,
HIDENOBU CHIBA, and HIDEAKI KADOWAKI

Appeal 2009-011166
Application 09/965,174
Technology Center 3600

Oral Hearing Held: March 18, 2010

Before HUBERT C. LORIN, ANTON W. FETTING, and
BIBHU R. MOHANTY, *Administrative Patent Judges*.

APPEARANCES:

ON BEHALF OF THE APPELLANT:

KATHERINE R. VIEYRA, ESQUIRE
Scully, Scott, Murphy & Presser, P.C.
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Garden City, New York 11530

1 The above-entitled matter came on for hearing on Thursday, March
2 18, 2010, commencing at 11:10 a.m., at the U.S. Patent and Trademark
3 Office, 600 Dulany Street, Alexandria, Virginia, before Victoria L. Wilson,
4 Notary Public.

5 THE USHER: Calendar number 65. Appeal number 2009-011166.

6 Ms. Vieyra.

7 JUDGE LORIN: Thank you very much.

8 Good morning, counsel.

9 MS. VIEYRA: Good morning.

10 JUDGE LORIN: If you could spell your name for the court reporter, please.

11 MS. VIEYRA: Sure. Do you want a card or spell it? It is V-I-E-Y-R-A.

12 JUDGE LORIN: Okay. Counsel, when you are ready to proceed, you have
13 20 minutes.

14 MS. VIEYRA: Okay. Great.

15 We are here this morning to talk about our application and to discuss the --
16 argue against the 102 rejection of our application over the prior art of Wilson.
17 We feel that Wilson does not teach each feature of our invention. In order to
18 have an anticipation rejection, anticipation requires the presence in a single
19 prior art reference disclosure of each and every element of the claimed
20 invention, arranged as in the claim, and we don't believe that that's the case in
21 this situation.

22 Our invention, our application, is a method, a system -- and a system capable
23 of quick accommodation to business process reengineering and changes
24 proposed by quality control activities. Using our invention, it is possible to
25 change an entire multistep business process, as well as an underlying business
26 procedure, by making a change in a master table.

1 This is done by creating sets of information, the information representing
2 tangible objects, for example, shown in our figure 3, and establishing both
3 collection of generation sequences for the sets of information and further
4 establishing a process or a flow for the collection of sequences.

5 In our claim, like claim 10, for example, a method for managing execution of a
6 business process, we have a series of steps. The first step is the registering of
7 what we are calling demand information, which is information related to
8 request instructions. We then have a register of supply information and the
9 supply information is generated by execution and completion of demand
10 information.

11 We create a plurality of sets of information that are made up of the demand
12 information and the supply information that's generated by the demand
13 information.

14 We register a business procedure master, which comprises business procedures
15 comprising a set -- a generation sequence of this plurality of sets of
16 information, so that we are registering the procedure -- a procedure or a set of
17 steps in our business procedure master, and from this, we define a process
18 flow. And a process flow has a relationship among the business procedures.
19 We register the business process flow and then it can be executed.

20 We -- Wilson, the prior art cited by the Examiner, does not teach each and
21 every feature of our claim and, specifically, Wilson does not teach anything
22 beyond perhaps a business procedure. He doesn't define a process flow, he
23 doesn't have a relationship among business procedures and he doesn't register
24 the process flow because he is -- he is not setting one up.

25 In the Examiner's Answer on page 6, the Examiner points out in detail how he
26 feels -- how she feels that Wilson -- what features that Wilson have that mimic

1 ours and she points to the same feature as doing two different things and that,
2 basically, she has two features of Wilson -- Wilson only has one feature that
3 we have as two separate and distinct things and they are not really combinable.
4 It is not possible to have the two separate things.

5 JUDGE MOHANTY: Counsel, I just -- you talk about business processes. I
6 see here in paragraph 13 of Wilson, they talk about you can specify the
7 delivery date, the type of delivery, sending out a letter before the delivery is
8 made, first in/first out accounting. Aren't those all business processes? I don't
9 see how they are not.

10 MS. VIEYRA: Yes, but the problem is that he doesn't do -- Wilson does a
11 standard business procedure that's similar to our business procedure but he
12 doesn't go to the next level and have a collection of business procedures that
13 are related in any way. In other words, Wilson is a very straightforward
14 ordering system. You order things. You place an order with all those -- that
15 information in it and you -- and the client receives it.

16 JUDGE MOHANTY: Wouldn't that be done -- you are arguing that there is
17 no generation sequence. Wouldn't there be --

18 MS. VIEYRA: No, I'm arguing that there is no process flow.

19 JUDGE MOHANTY: Well, wouldn't there be -- I don't see how it would flow
20 any other way. You have to -- how is it not a process flow? You order it, you
21 fill the order, you send a letter out --

22 MS. VIEYRA: Right, that would be equivalent -- if it were equivalent, that
23 would be equivalent to our generation sequence.

24 JUDGE MOHANTY: I don't understand how that's not in the reference here.

25 MS. VIEYRA: No. He -- we have -- if you look at, for example, our figure

5, it shows the two columns and, basically, in effect, Wilson only has one column. He has a business process. I mean he has -- he has a supply -- a demand supply and then it can be in a sequence but he doesn't have a series of those that have any kind of relationship. I order, you order, they all get stuck into a queue and they all get delivered.

JUDGE MOHANTY: There is no I order or you order in the claims. What you are claiming is a generation sequence determined by one information --

MS. VIEYRA: Correct.

JUDGE MOHANTY: -- one how. And I'm talking about claim 7 here, one how.

MS. VIEYRA: Okay.

JUDGE MOHANTY: I don't know where these other things are coming in by -- I'm looking at --

MS. VIEYRA: No, I'm talking claim 10.

JUDGE MOHANTY: Okay.

MS. VIEYRA: So claim 10.

JUDGE MOHANTY: You talk about a business flow.

MS. VIEYRA: Right.

JUDGE MOHANTY: Okay. I don't see how there is not a business flow with what's being done in the reference.

MS. VIEYRA: There is not a business flow that has a relationship of these procedures. There is just one procedure and it is -- there is no -- there is no inter --

JUDGE MOHANTY: Here's procedure one: You place an order, the order is filled, you wrote out a letter I'm going to send out this. How are those not different procedures? Ordering is one procedure. Saying I'm going to mail

1 it out is another procedure. The type of delivery is another type of
2 procedure. I don't see how those aren't different -- each one of those isn't a
3 different set of procedure.

4 MS. VIEYRA: Even if that were, then you have a very straightforward
5 relationship. You have no way to -- they have to be done in that order. You
6 can't insert anything and you can't --

7 JUDGE MOHANTY: That's all the claim requires. I don't see anything -- I
8 don't know what you are talking about inserting here or there that's not in the
9 claim.

10 MS. VIEYRA: So -- okay. The problem is that if you say that, then how do
11 you get -- we have two things.

12 You look, for example, at figure 5. We have a mass -- we have the business
13 procedure master, number 32, and we have a business process flow master.

14 What you are saying is -- and this is where we felt that the Examiner kind of
15 got off track -- okay, so what you are saying is you order something, you fill

16 the order, you ship it. That could be, for example, our business procedure

17 master number 32. 501, 502, 503, 504 -- 500-1, dash 2, dash 3. Then -- but

18 we have a further relationship with other different -- with other things.

19 So we have -- also, we have purchasing. We have the thing that's numbered

20 600. So 500 has a relationship to 600 and 500 has a relationship to 601. You

21 don't have a 600 or a 601. It is the same thing. You have the same thing. So

22 why would that be any different than just 500 over and over and over again? I

23 mean that's --

24 JUDGE MOHANTY: Okay.

25 MS. VIEYRA: That's our feeling. If you -- if it should be more clearly

26 defined, it is possible that there is something we could be doing, but

1 fundamentally, that's the fundamental difference and maybe we are not
2 expressing it properly.

3 JUDGE MOHANTY: I think I'm clear on your position if you want to move
4 ahead.

5 MS. VIEYRA: I mean that, basically, is our position, our argument, that they
6 don't have two separate things. They just have -- either it is a business
7 procedure or it is a process flow but you don't have a business procedure and a
8 process flow.

9 JUDGE MOHANTY: Okay. I have no future questions.

10 JUDGE LORIN: Any further questions?

11 No further questions.

12 MS. VIEYRA: Okay.

13 JUDGE LORIN: Thank you, counsel.

14 MS. VIEYRA: Okay. Thank you.

15 Whereupon, the proceedings at 11:21 a.m. were concluded.